

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

UNITED STATES OF AMERICA,

Plaintiff

-v-

MAHMOUD THIAM,

Defendant.
-----X

Dated: April 8, 2017

**DEFENDANT'S
PROPOSED
VOIR DIRE**

17 Cr. 0047 (DLC)

Respectfully submitted,

Law Office of
AARON M. GOLDSMITH, PC
Attorneys for Defendant

_____/s/_____
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TO: US DISTRICT COURT, NDNY
Hon. Denise L. Cote, USDJ
500 Pearl Street
New York, NY 10007
Via ECF

US ATTORNEY, SDNY
Attn.: Elisha Kobre, AUSA
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Via ECF and email

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**DEFENDANT MAHMOUD THIAM's
PROPOSED VOIR DIRE QUESTIONS**

Pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, the defendant respectfully requests that the Court supplement its examination of prospective jurors by including the following questions. The Court is further respectfully requested to conduct more detailed questioning (outside the presence of the panel of prospective jurors) if a prospective juror's answer(s) reveal(s) that further inquiry is appropriate and, in such an instance, to conclude by asking the prospective juror whether such fact or circumstance would prevent the prospective juror from serving as a juror in a fair and impartial manner.

BIOGRAPHICAL INFORMATION

1. (A) Do you have any difficulty reading or understanding the English language?
(B) What other languages do you speak?
2. Do you have a physical problem (i.e. hearing impairment, vision impairment, hypertension, back injury, etc.) that would interfere with your ability to serve on the jury?
3. What is your place of birth (limit answer to the state, or if outside of the United States, the Country)?
4. Are you:
Married; Single; Divorced/Separated; Widow/Widower; living with a significant other; living with a roommate?
5. If you are married or living with another adult, where was the birthplace of your spouse/significant other?
6. Do you have any children?

- 6(a). If you have children, please indicate their: Age; Sex; Education; Type of Employment and Employer.
7. If employed full or part-time, what type of work do you do and who is your Employer?
(For example: teller/Citibank)
8. If retired or unemployed, what type of work had you been doing and who was your most previous employer.
9. (A) Do you have a second job?
(B) What type of job is it and who is your employer?
10. What neighborhood and County do you reside in (i.e., Mt. Vernon, Bronx, etc)? How long have you lived at your residence?
11. Do you: Own a home? Rent? Live with relatives or friends?
12. Are you: Self-employed? Employed part-time? Work at home? Unemployed/laid-off? Retired? Student? Disabled and unable to work?
13. If you work at home, do you have a job skill which qualifies you for employment outside of the home? If so, please describe.
14. If you are self-employed, do you own your own business?
15. Is your spouse or any adult with whom you live: Self-employed? Employed part-time? Work at home? Unemployed/laid-off? Retired? Student? Disabled and unable to work?
16. If employed full or part-time, what type of work does your spouse/or adult with whom you live do, and who is their employer? (i.e. teller/Citibank).
(A) How long at present job?
(B) Does s/he supervise others at your job?
17. If retired or unemployed, what type of work had your spouse/or the adult with whom you live been doing and who was his/her employer?
18. (A) Does s/he have a second job?
(B) What type of job is it and who is his/her employer?
19. List any jobs s/he has had in the past five years. Describe the type of work and who the employer was.

20. (A) Have you ever been a member of any labor union?
(B) If yes, state which union.
21. (A) Were you ever in a military service?
(B) Any service as Military Police?
(C) Any service in a Courts martial defense attorney, prosecutor or investigator?
(D) If yes, would that experience prevent you from rendering a verdict based solely on the evidence presented in this case?
22. (A) What level of education did you complete?
(B) If college or post-graduate, please state the degrees, or your major area of study.
(C) If you are currently a student, please describe briefly your area of study.
23. What newspapers and magazines do you read? Indicate how frequently (e.g., daily, often, occasionally, rarely).
24. Do you watch the news on TV? If yes, how frequently (e.g., daily, often, occasionally, rarely)?
25. What are your three (3) favorite television shows?
26. What radio stations do you listen to?
27. If you have bumper stickers on your car, what do they say?
28. Do you belong to any clubs, associations or civic groups, such as, but not limited to, Kiwanis, Rotary Club, Knights of Columbus, Veterans of Foreign Wars, American Legion or any other association? If yes, please list the associations to which you belong.
29. Do you have any hobbies? If yes, what are they?
30. Have you ever attended law school?
31. Do you have any close friends or relatives who are lawyers, or who have attended law school?
32. Do you have any substantially negative opinions of lawyers that will prevent you from being a fair and impartial juror?
33. This case will involve an allegation that the defendant first accepted a bribe, which was illegal in the Republic of Guinea, and then laundered the bribe money into a bank account here in New York.

33. Is there anything about the nature of the charges themselves (i.e. bribery and money laundering) which would affect your ability to serve as an impartial juror in this case?
34. Have you, or any close friend or family member, had personal experiences with these kinds of charges that would affect your ability to serve as an impartial juror in this case?
35. The defendant is from Manhattan, does the fact that the defendant is from Manhattan make it difficult to remain fair and impartial in this case.
36. The defendant is a naturalized United States Citizen, whose family is from the Republic of Guinea.
37. Are you a United States Citizen either by birth or Naturalization?
38. If you are not a United States Citizen, what is your citizenship status?

LAW SCHOOL AND GOVERNMENTAL TIES

39. Have you or any family member or close friend ever been a member of any group that lobbies or takes public positions on law enforcement issues?
40. Do you or does any relative or close friend work for or with any federal, state or local law enforcement agency, such as, but not limited to, a police or sheriff's department, district attorney's office, United States Attorney's office, Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Customs and Immigration, Homeland Security Investigations or any private security/investigation firm?
41. Would you tend to give the testimony of a law enforcement officer or other government agent more weight solely because of that person's position as a law enforcement officer or government agent?
42. Have you or a relative or close friend ever applied to a federal, state or local agency for employment?
43. Have you or a relative or any close friend ever done business or sought to do business with the federal, state, or local government?
44. Do you or does any relative or close friend work for a criminal lawyer or private investigator?
45. Are you or do you have any relatives or close friends who are judges, law clerks, court clerks, court attendants, or other types of court personnel, probation officers or persons connected with any penal institution, jail or penitentiary?

46. Have you or has a family member or any close friend ever been charged with a crime or been subject to a criminal investigation?
47. Have you ever appeared or testified as a witness in any investigation or legal proceeding?
48. Have you ever been questioned in any matter by the Police, any state or local law enforcement agency or by the Department of Justice or any United States investigative agency such as the Federal Bureau of Investigation, Drug Enforcement Administration, Internal Revenue Services, Bureau of Alcohol, Tobacco and Firearms, Homeland Security, Bureau of Immigration and Customs Enforcement, or the Securities and Exchange Commission?
49. Have you ever been involved, or do you expect to become involved, in any legal action or dispute with the United States or any agency, officer, employee thereof, or have you ever had any financial interest in such a dispute?

EXPERIENCE, KNOWLEDGE & OPINIONS OF THE CRIMINAL JUSTICE SYSTEM

50. (A) Have you or has a family member ever been the victim of a crime?
(B) If yes, please provide details on: the type of crime, approximately how long ago, was anyone injured, was a weapon involved, was anyone arrested, did you participate in the identification procedure (i.e., line-up or photographs), did you participate in the prosecution (i.e., testify at trial), did you lose any money or property?
(C) If yes, is there anything about that experience that would make it difficult for you to serve as a fair and impartial juror in this case, given the subject matter of the indictment?
51. Can you accept the Court's instructions that no defendant may be found guilty unless the evidence submitted at trial proves that individual's guilt beyond a reasonable doubt?
52. Is there anything about the nature of the charges (conspiracy to distribute narcotics) which would interfere with your ability to decide, based solely on the evidence, of whether the defendant has been proven guilty beyond a reasonable doubt?
53. Do you personally know or have any connection (personal, professional, social or otherwise) with the defendant MAHMOUD THIAM here on trial?
54. Do you personally know or have any connection with the attorneys for defendant and/or their respective lawyers/paralegals: AARON M. GOLDSMITH, ESQ., MICHAEL DELAKAS, ESQ. and JENNIE CARMONA, Paralegal.
55. Do you have any connection (personal, professional, social or otherwise) with the prosecution, the United States Attorney for the Southern District of New York, or the Assistants ELISHA KOBRE and CHRISTOPHER DiMASE.

56. Do you have any impression, opinion or belief concerning the New York Police Department, Homeland Security Investigations, Bureau of Customs and Immigration, the Department of Justice, or law enforcement agencies generally which would lead you to be prejudiced in favor of or against the Government in this case?
57. Conversely, do you have any impression, opinion or belief concerning the defendant or law enforcement that would lead you to be prejudiced in favor of or against the defendant?

PRIOR JURY EXPERIENCE AND ACCEPTANCE OF BASIC LEGAL PRINCIPLES

58. Have you had previous jury duty experience? If yes, was it a civil case, criminal case or a Grand Jury?
59. Have you ever served as a jury foreperson?
60. If you have served on a jury previously, please list:
 - (A) The approximate dates.
 - (B) Whether the service was in Federal or State Court.
 - (C) Whether the service was as a trial juror or Grand Juror.
 - (D) General nature of the case (robbery, murder, tax fraud, etc.)
 - (E) Whether a verdict was reached - without revealing the verdict.
 - (F) Have you ever been a juror in a case, which was dismissed because the jury was deadlocked?
61. Was there anything about your experience of serving on a trial jury or a Grand Jury that would affect your ability to sit as a juror in this case?
62. It is not uncommon for people to feel that if a defendant has been indicted by a Grand Jury, that defendant is probably guilty. Do you share that view in any respect?
63. Do you feel that simply because a defendant is charged with a crime by a Grand Jury, that a defendant is probably guilty?
64. Do you feel that a defendant would not be on trial unless he had done something wrong?
65. Do you believe the fact that a defendant is indicted is entitled to any weight at all in deciding whether that defendant is innocent or guilty?
66. Can you accept that the defendant is, at this moment, presumed to be innocent of any crime and that he is presumed to be innocent throughout the entire course and duration of this trial and during your deliberations?

67. Do you understand that it is the sole obligation of the prosecution to prove, if it is able, the defendant guilty beyond a reasonable doubt?
68. Do you have any difficulty accepting this proposition?
69. Under the law, the facts are for the jury to determine and the law is for the Court to determine. These two functions are separate and distinct. At the end of the case the Court will instruct you on the law. You are required to accept the law as it is explained to you, notwithstanding your own personal view. It will be your job to determine the facts under the Court's explanation of the law. Would you have any difficulty in following this rule?
70. Under the law, a defendant may elect whether or not s/he will testify. If the defendant elects not to testify, the jury may not draw any inference against the defendant based on that decision. That fact may not enter into the jury's deliberation. Would you have any difficulty in following this principle?
71. Under the law, the defendant is under no obligation to present any evidence or case in his own behalf. If the defendant elects not to present any evidence on his own behalf, the jury may not draw any adverse inference against the defendant based on that decision. That fact may not enter into the jury's deliberation. Would you have any difficulty in following this principle?
72. Conversely, should the defendant decide to put on a case on his own behalf, that fact does not shift the burden of proof to the defendant, nor does it diminish the obligation of the Government to prove the defendant's guilt beyond a reasonable doubt. Would you have any difficulty in following this principle?
73. Several witnesses in this case will be law enforcement officers. Their testimony is not entitled to any greater or lesser weight simply because they are law enforcement officers. Would you have any difficulty in following that instruction?

74. [If Applicable] A number of the prosecution's witnesses will be cooperating witnesses. Is there anything about the use of cooperating witnesses that will impact your ability to be fair and impartial?
75. [If Applicable] Some of the evidence expected to be introduced at trial consists of undercover officers. The use of undercover law enforcement agents is legal. Is there anything about the use of undercover law enforcement agents that will impact your ability to be fair and impartial?
76. Do you believe that you, or any member of your family – including an immediate prior generation – were persecuted by a foreign government? If so, please describe when, where, which government and how that government persecuted.
77. Did you and/or your family – including an immediate prior generation – immigrate to the United States from a West African country? If so, please describe which country your family came from, when and why they left.
78. If the evidence establishes a defendant's guilt beyond a reasonable doubt, would you be unable to return a guilty verdict against that defendant for some reason that has nothing to do with the law or the evidence?
79. If the evidence fails to establish a defendant's guilt beyond a reasonable doubt, would you be unable or reluctant to return a "not guilty" verdict for some reason that has nothing to do with the law or evidence?

Dated: New York, New York
April 8, 2017

RESPECTFULLY SUBMITTED,

_____/s/_____
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CERTIFICATION OF SERVICE

AARON M. GOLDSMITH, an attorney duly admitted to practice law before the Courts of the United States, Southern District of New York, affirms the following under penalty of perjury:

That I am attorney for Defendant MAHMOUD THIAM in the above-entitled action; that I am not a party to this action; and that on the 8th day of April, 2017, I served the annexed PROPOSED VOIR DIRE, by ECF and electronic means, to the following:

US ATTORNEY, SDNY
Attn.: Elisha Kobre, AUSA
Christopher DiMase, AUSA
One St. Andrews Plaza
New York, NY 10007

AND that I further filed the annexed document, electronically.

This being the address of record within the State of New York, listed for service of the parties to the within action.

Dated: New York, NY
April 8, 2017

_____/s/_____
Aaron M. Goldsmith, Esq.